

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-207985

DATE: July 12, 1982

MATTER OF: Lone Star Van Lines

DIGEST:

Where procuring agency finds small business concern is not responsible, Small Business Administration's (SBA) denial of certificate of competency will not be reviewed by GAO except in circumstances not present here since by law SBA has conclusive authority to determine all matters of small business firm's responsibility.

Lone Star Van Lines (Lone Star), a small business, protests the contracting officer's determination that the firm was not responsible under Department of the Air Force (Air Force) solicitation No. F41613-81-B022, on which it was the low bidder.

Lone Star status was found nonresponsible because of an alleged lack of operating authority. The matter was referred to the Small Business Administration (SBA) so that SBA could consider the issuance of a certificate of competency (COC). SBA declined to issue a COC because Lone Star failed to establish its financial responsibility.

When a contracting officer determines that a small business bidder is nonresponsible, the law requires that the contracting officer refer the matter to the SBA, which has conclusive authority to determine all elements of responsibility. 15 U.S.C. §37(b)(7) (Supp. III 1979). Accordingly, we do not review a contracting officer's determination that a small business is nonresponsible. See Surgical Instrument Company of America, B-201832.3, September 16, 1981, 81-2 CPD 221. Further, in light of

SBA's conclusive authority, we will not review the SBA's decision to issue or not to issue a COC absent a prima facie showing of fraud or bad faith. Vernitron Corporation, B-201832.4, September 25, 1981, 81-2 CPD 250. Lone Star does not allege fraud or bad faith. Therefore, we will not consider the matter.

The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel